

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT  
AT DANVILLE, VA  
FILED for  
Cville  
OCT 30 2006  
JOHN F. CORCORAN, CLERK  
BY: HMcDonald  
DEPUTY CLERK

UNITED STATES OF AMERICA,

)

Plaintiff,

)

Criminal Case No. 3:97cr00028

v.

)

ORDER

GAVIN RODERICK WHITE,

)

By: Hon. Jackson L. Kiser  
Senior United States District Judge

Defendant.

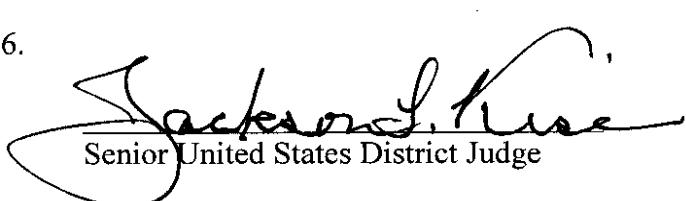
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This matter is before the court upon White's pro se Motion to Correct Sentence to Reflect Credit for Time Served, which I must deny for lack of jurisdiction. Title 18, § 3582(c) expressly states “[t]he court **may not** modify a term of imprisonment once it has been imposed except” upon a motion by the Bureau of Prisons or the government or other circumstances not present in White's case. (Emphasis added.) See also Fed. R. Crim. Pro. 35 (court can only correct or reduce sentence only within seven days from the entry of the judgment upon motion by the government or upon remand from the court of appeals). Furthermore, inasmuch as defendant's motion could be construed as a habeas petition pursuant to 28 U.S.C. §2255, such a petition would be premature because White is not being illegally detained at this time. That status would not occur until his 2010 release date comes to pass.

As I find no basis upon which I have jurisdiction to modify defendant's sentence at this time, it is hereby **ORDERED** that his motion for reduction of sentence shall be and hereby is **DENIED**.

The Clerk of the Court is directed to send certified copies of this order to petitioner and counsel of record for the respondent.

ENTER: This 30<sup>th</sup> day of October, 2006.

  
Jackson L. Kiser  
Senior United States District Judge